

EXHIBIT 16

1 Page 1

2 IN THE UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF VIRGINIA
4 NORFOLK DIVISION

5 No. 2:18cv530

6 CSX TRANSPORTATION, INC.,
7 individually and on behalf
8 of NORFOLK & PORTSMOUTH BELT
9 LINE RAILROAD COMPANY,

10 Plaintiff,

11 v.

12 NORFOLK SOUTHERN RAILWAY COMPANY,
13 et al.,

14 Defendants.

15 _____ /
16 Remote Proceedings

17 January 13, 2021

18 9:38 a.m. - 6:40 p.m.

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20 VIDEO DEPOSITION OF ROBERT GIRARDOT
21 (via Teleconference)

22 Taken before SUZANNE VITALE, R.P.R., F.P.R.
23 and Notary Public for the State of Florida at Large,
24 pursuant to Notice of Taking Deposition filed in the
25 above cause.

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30 Job No. CS4395739

1 that provision, would you agree that
2 Norfolk Southern would be in its rights to seek to
3 have the NPBL uphold that portion of the operating
4 agreement?

5 MR. HATCH: I'm going to object with the
6 same set, and I'll add that it's been asked and
7 answered.

8 MR. WINGFIELD: The witness did not answer
9 the question, so I'm asking it again. So I'll
10 have to ask it a third time and see if I can
11 get an answer.

12 BY MR. WINGFIELD:

13 Q. Does CSX agree that NSR would be within
14 its rights to seek to uphold the agreement embodied
15 in the first sentence of the tenth paragraph of the
16 operating agreement?

17 MR. HATCH: I'm going to object. That is
18 a hypothetical question. It calls for a legal
19 conclusion. The witness is here to provide
20 factual testimony.

21 So with those objections, if you can
22 answer, Rob, please proceed.

23 THE WITNESS: Yes.

24 BY MR. WINGFIELD:

25 Q. Would CSX agree that the first sentence of

1 monitor is 3:02 p.m. We are back on the video
2 record. This is the start of Media Unit No. 4.

3 BY MR. WINGFIELD:

4 Q. Mr. Girardot, we're on Exhibit 14, which
5 is tab 16, Cannon Moss' e-mail, still.

6 In Mr. Moss' e-mail, the last bullet point
7 reads "NPBL management has reviewed the proposed
8 rate and would recommend to the board for a rate
9 committee to do a complete review of the tariff."

10 Do you see that?

11 A. Yes.

12 Q. Did CSXT understand it was being offered a
13 rate committee to consider the proposed rate if it
14 wanted?

15 A. No, I don't understand that bullet as
16 that, no.

17 Q. Okay. Did CSXT at any point say yes,
18 thank you, we would like the rate committee?

19 A. Not that I know of.

20 Q. So let's go back to the 2018 rate
21 proposal, Exhibit 12, tab 7.

22 A. Yes.

23 Q. I'm on page 2, the language we looked at
24 before, where CSXT, in this letter, stated
25 "Similarly, we believe the commercial sensitivity